

# Exhibit 53

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ROSS UNIVERSITY SCHOOL OF )  
MEDICINE, )  
Plaintiff )  
VS. ) C.A. NO. 09CIV1410  
BROOKLYN QUEENS HEALTH CARE, )  
ET AL, )  
Defendants )  
-----)

TELEPHONIC DEPOSITION OF JOHN N. KASTANIS, taken  
at the request of the plaintiff pursuant to the  
applicable Rules of Civil Procedure before Carol A.  
Whitney, a Notary Public and Certified Shorthand  
Reporter in and for the Commonwealth of Massachusetts,  
on July 7, 2011, commencing at 10:00 A.M. at the  
offices of John N. Kastanis, Quincy Medical Center,  
114 Whitwell Street, Quincy, Massachusetts.

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2  
3 APPEARANCES:  
4  
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1 PROCEEDINGS  
2 MS. WHITTLESEY: Mr. Kastanis, my name is Gillian  
3 Whittlesey. I'm here on behalf the plaintiff Ross  
4 University School of Medicine. Mr. Loughlin is here  
5 on behalf of the defendants BQHC and Wyckoff. Ms.  
6 Hoey is here on behalf of you, and --  
7 MS. HOEY: Excuse me. We got cut off, Gillian.  
8 Go ahead.  
9 MS. WHITTLESEY: Oh, did I?  
10 MS. HOEY: Go ahead. I'll just start over. Mr.  
11 Kastanis, my name is Gillian Whittlesey. I'm here on  
12 behalf of the plaintiff Ross University School of  
13 Medicine. We also have Mr. Loughlin on the line on  
14 behalf of the defendants, and we have Ms. Hoey on the  
15 line, also, who is your counsel.  
16 Mr. Kastanis, is the court reporter there with  
17 you?  
18 THE WITNESS: Yes, she is.  
19 MS. HOEY: Gillian, this is Barbara. For some  
20 reason when you're talking there's like an echo. Are  
21 you on a speaker phone?  
22 MS. WHITTLESEY: Yes. Let me try something. All  
23 right. Shall we enter appearances? This is Gillian  
24 Whittlesey with Baker Hostetler on behalf of the  
25 plaintiff Ross University School of Medicine.

1 Mr. Loughlin, would you like to enter your  
2 appearance?  
3 MR. LOUGHLIN: Walter Loughlin, K & L Gates for  
4 BQHC and Wyckoff.  
5 MS. HOEY: And Barbara Hoey, of Littler Mendelson  
6 representing the witness, John Kastanis.  
7 MS. WHITTLESEY: Let's get started.  
8 JOHN N. KASTANIS, called as a witness,  
9 having been satisfactorily identified and duly sworn  
10 by the Notary Public, was examined and testified as  
11 follows:  
12 EXAMINATION BY MS. WHITTLESEY:  
13 Q. Mr. Kastanis, have you ever been deposed before?  
14 A. Yes, I have.  
15 Q. On how many occasions?  
16 A. Once.  
17 Q. And was that deposition taken in person or over the  
18 phone?  
19 A. In person.  
20 Q. Okay. Have you ever given any other testimony of any  
21 sort in any legal proceeding?  
22 A. No.  
23 Q. Okay. And was that deposition given in a civil or  
24 criminal case?  
25 A. Civil.

1 Q. Were you a party in that case?  
 2 A. I'm not sure what that question --  
 3 Q. Were you the plaintiff or defendant in that case?  
 4 A. No.  
 5 Q. Okay. I'm going to go over a few things about how the  
 6 deposition will go just to make sure we're all on the  
 7 same page. As you know, since you've been through  
 8 this before, I will be asking questions. The court  
 9 reporter will be recording both my questions and your  
 10 answers.  
 11 I don't think we'll run into these problems as  
 12 often because we're doing this over the phone, but  
 13 it's important that you answer your questions orally,  
 14 using clear language. I don't think we'll run into  
 15 any nodding of the head here, but if you could refrain  
 16 from things like uh-huh or um-hmms and use yes or no,  
 17 that would be a benefit to the court reporter.  
 18 Also, since we've run into some technical  
 19 difficulties already, if I ask a question and you  
 20 don't understand it or can't hear for any reason,  
 21 please let me know, and I'm happy to restate or  
 22 rephrase the question. Is that fair for you?  
 23 A. Yes, it is.  
 24 Q. Great. Also, if I ask a question and you provide an  
 25 answer, I'm going to assume that you understood and

1 impair your ability to testify today?  
 2 A. No.  
 3 Q. Okay. Mr. Kastanis, how did you prepare for this  
 4 deposition?  
 5 A. I conferred --  
 6 MS. HOEY: Excuse me. Objection. I would just  
 7 caution the witness not to reveal in the answer any  
 8 conversations he had with counsel.  
 9 Q. Correct. Nothing about the substance of what was  
 10 said, but the fact that you met with counsel is fine  
 11 to answer about.  
 12 MS. HOEY: Objection. Go ahead, Mr. Kastanis.  
 13 A. I conferred with counsel, and I reviewed the exhibits  
 14 that were provided to me.  
 15 Q. How many times did you confer with counsel?  
 16 A. I don't recall.  
 17 Q. Do you recall for how long you conferred with counsel?  
 18 A. It was briefly.  
 19 Q. More than an hour?  
 20 A. No.  
 21 Q. Okay. Was that done over the phone?  
 22 A. Yes.  
 23 Q. Did you review any other documents besides the  
 24 exhibits we provided?  
 25 A. No.

7

1 heard the question. Is that fair?  
 2 A. Yes.  
 3 Q. Okay. As I stated earlier off the record, I don't  
 4 expect this deposition to last more than an hour,  
 5 maybe an hour and change, but if at any point you need  
 6 a break, just let me know.  
 7 I just ask that if there is a question pending  
 8 that you finish answering the question before we take  
 9 a break. Is that fair?  
 10 A. Yes.  
 11 Q. Also, as we proceed if it ever occurs to you that a  
 12 previous answer was either incomplete or not  
 13 completely accurate, just let me know, and we can take  
 14 time to make the necessary corrections to your  
 15 previous answers.  
 16 Have you taken any medications or drugs this  
 17 morning that could impair your ability to understand  
 18 and answer my questions today?  
 19 A. Only caffeine.  
 20 Q. Okay. I've had that myself. Have you had anything  
 21 alcoholic to drink in the last eight hours?  
 22 A. No.  
 23 Q. Are you in any way feeling ill today?  
 24 A. No.  
 25 Q. Can you think of any reason or anything that could

9

1 Q. Did you speak with anyone besides your attorney in  
 2 preparing for this deposition?  
 3 A. No.  
 4 Q. You did not speak with anybody at BQHC or Wyckoff in  
 5 preparation?  
 6 A. Yes, I did.  
 7 Q. Who did you speak with?  
 8 A. I spoke with David Hoffman about who would represent  
 9 me.  
 10 Q. Okay. And who is representing you?  
 11 A. Barbara Hoey.  
 12 Q. Are you paying for your own legal expenses and  
 13 attorneys' fees?  
 14 A. To my knowledge --  
 15 MS. HOEY: Objection. I would direct the witness  
 16 not to answer.  
 17 THE WITNESS: Okay. I'm not answering.  
 18 MS. HOEY: Whatever arrangement has been made  
 19 between Mr. Kastanis and my firm is not and should not  
 20 be the subject of this.  
 21 MS. WHITTLESEY: Is your objection on the basis  
 22 of privilege?  
 23 MS. HOEY: Yes. I'm directing him not to answer.  
 24 Q. Okay. Moving forward. When you spoke with Mr.  
 25 Hoffman, did you take any notes?

10

12

1 A. No.

2 **Q. Did you discuss anything aside from who would be**

3 **representing you?**

4 A. No.

5 **Q. When did you retain Littler Mendelson, Ms. Hoey, as**

6 **your counsel?**

7 MS. HOEY: Objection. I'm directing him not to

8 answer. Ms. Whittlesey, this is really going

9 overboard in terms of how he retained counsel and who

10 he retained. I'm representing him. You said you

11 wanted to take the man's deposition.

12 He's employed at another institution as a CEO of

13 a hospital that is in the middle of its own series of

14 crises. Mr. Kastanis has a lot on his plate right

15 now. Why don't you get to the guts of the questions

16 you need to ask and not about the arrangements he's

17 made and how he made arrangements to retain counsel

18 for the deposition. I'm instructing him not to

19 answer. Move on.

20 MS. WHITTLESEY: I would argue that these

21 questions are relevant.

22 MS. HOEY: How?

23 MS. WHITTLESEY: I will also argue that your

24 speaking objections are inappropriate. I respect any

25 objections you have as long as they're made in a

1 **financial distress? Are there any common**

2 **characteristics your clients have when they seek your**

3 **services?**

4 MS. HOEY: Objection to form. You can answer, if

5 you understand the question.

6 **Q. You can answer, Mr. Kastanis.**

7 A. I've taken on traditional executive leadership roles,

8 which require everything, expansion of programs,

9 financial challenges, labor management issues, et

10 cetera, all the traditional roles of a hospital CEO.

11 **Q. When you're brought in on the interim basis, why are**

12 **you brought in?**

13 MS. HOEY: Objection to form. Are you asking him

14 what has occurred over 30 years or are you asking him

15 about specific assignments?

16 **Q. I'm just asking generally if there is anything. If**

17 **there's no common characteristics, it's fine to answer**

18 **that there aren't any common characteristics.**

19 MS. HOEY: That wasn't your last question. Court

20 Reporter, can you read back the last question.

21 (The reporter read back the record as requested.)

22 MS. HOEY: That's the question I'm objecting to,

23 Gillian. What do you mean "when you're brought in on

24 an interim basis"?

25 MS. WHITTLESEY: He said that more recently he's

11

13

1 concise manner.

2 MS. HOEY: You should move on.

3 **Q. Moving forward, Mr. Kastanis, let's get into you and**

4 **your background. Can you describe your career**

5 **history, specifically your roles as an executive. We**

6 **don't have to go into every detail, but...**

7 MS. HOEY: Objection to form.

8 **Q. Mr. Kastanis, will you describe your career history.**

9 A. My attorney's objecting.

10 MS. HOEY: Excuse me, John. You can answer the

11 question as long as I haven't directed you not to

12 answer. I just made an objection to form. You can

13 answer, if you understand.

14 A. I've spent the past 30 years plus working my way up in

15 hospital and health systems operations. I've had

16 extensive experience in leadership roles running urban

17 and suburban teaching hospitals predominantly in the

18 New York metropolitan area, and I am currently a

19 consultant providing interim CEO services to various

20 clients, including the one I'm with now.

21 **Q. What characteristics do your clients have?**

22 MS. HOEY: Objection to form. Can you clarify

23 what you mean by "characteristics," Ms. Whittlesey?

24 **Q. More specifically, when you're retained, are your**

25 **clients looking to expand, are they in any kind of**

1 been working, being brought in on an interim basis.

2 MS. HOEY: Okay.

3 **Q. In the instances when you've been brought in on an**

4 **interim basis, not for more of a permanent position,**

5 **why have you been retained?**

6 A. Simply because there's a vacancy.

7 MS. HOEY: Objection.

8 **Q. How did you obtain your position at Caritas Health**

9 **Care?**

10 A. I was called by a representative from the Caritas

11 board.

12 **Q. Who called you?**

13 A. I don't remember.

14 **Q. When did you receive that call?**

15 A. It was to the best of my recollection, it was in

16 November of 2008.

17 **Q. Were you employed at the time you received that call?**

18 A. I was not.

19 **Q. What was discussed during that phone conversation?**

20 A. There was a need, an immediate need for a leadership

21 role at Caritas Health.

22 **Q. And what role was that?**

23 A. That was the CEO position.

24 **Q. Was there any discussion of what that position would**

25 **require of you?**

1 A. Yes.  
 2 **Q. What was discussed?**  
 3 A. I don't remember all the details. What I do recall,  
 4 just in general, was that the Caritas health system  
 5 was in financial and operational trouble, and they  
 6 needed someone with extensive experience to step in  
 7 and assist the board in running the day-to-day  
 8 operations of the health system.  
 9 **Q. Did they communicate how they found you?**  
 10 A. Not specifically, no.  
 11 **Q. Do you know why they contacted you?**  
 12 A. Because of my extensive background in hospital  
 13 administration.  
 14 **Q. Now, what other -- approximately how many hospitals**  
 15 **did you work at before Caritas?**  
 16 A. That's going to take a few minutes. Hold on.  
 17 **Q. Take your time.**  
 18 A. Four hospitals.  
 19 **Q. What positions did you have at those four hospitals?**  
 20 A. I was a VP for operations and also at the executive  
 21 level.  
 22 **Q. In total, how many years were you working at those**  
 23 **four hospitals?**  
 24 A. At that point, it was 30 years.  
 25 **Q. Did you ever hold any positions at Wyckoff or BQHC?**

15

1 A. No.  
 2 **Q. And how long did you work at Caritas?**  
 3 A. I worked as the interim CEO for approximately three  
 4 months, and then we went into bankruptcy. Then I just  
 5 continued working on a consultative basis for the  
 6 balance of the year 2009.  
 7 **Q. Would you describe your time at Caritas, what your**  
 8 **roles were?**  
 9 MS. HOEY: Objection. He just described his  
 10 roles.  
 11 **Q. Well, will you describe your time at Caritas in terms**  
 12 **of the health of Caritas as an institution when you**  
 13 **were there?**  
 14 MS. HOEY: Objection to form.  
 15 **Q. You may answer.**  
 16 MS. HOEY: Gillian, can you explain what you mean  
 17 by the health of the institution? I don't know if  
 18 that was a pun intended. It's a healthcare  
 19 institution.  
 20 MS. WHITTLESEY: No, it wasn't an intended pun.  
 21 He said he was brought in because it was in financial  
 22 distress.  
 23 MS. HOEY: Well, he just answered the question,  
 24 saying that approximately three months after he was  
 25 hired the institution filed bankruptcy, which I think

1 is not a news flash to you.  
 2 MS. WHITTLESEY: I'm looking for Mr. Kastanis'  
 3 testimony here.  
 4 MS. HOEY: I don't understand what your question  
 5 is.  
 6 **Q. Mr. Kastanis, did you understand the question?**  
 7 A. Not fully.  
 8 MS. WHITTLESEY: Court Reporter, would you read  
 9 it back.  
 10 (The reporter read back the record as requested.)  
 11 **Q. Mr. Kastanis, do you understand that question?**  
 12 A. It's very broad, so I'm not quite sure.  
 13 **Q. Okay. I can rephrase it. From the time you began at**  
 14 **Caritas until you left Caritas, how did the financial**  
 15 **state of the hospital evolve?**  
 16 A. Well, the hospital had already been financially  
 17 challenged, and I addressed all of the financial  
 18 issues that were at hand.  
 19 **Q. When did it become clear that Caritas would go into**  
 20 **bankruptcy?**  
 21 MS. HOEY: Objection to form.  
 22 **Q. You may answer, Mr. Kastanis.**  
 23 A. That was probably right after the new year, early  
 24 January 2009.  
 25 **Q. How was the decision to go into bankruptcy made?**

17

1 MS. HOEY: Objection to form.  
 2 **Q. You may answer.**  
 3 MS. HOEY: If you know the answer, Mr. Kastanis,  
 4 you can answer.  
 5 A. All right. Thank you. The hospital at that juncture  
 6 or I should say the health system at that juncture was  
 7 dependent on continuing borrowings from the New York  
 8 State Department of Health and the Dormitory  
 9 Authority, and we were officially informed that we  
 10 would no longer have access to those borrowings.  
 11 **Q. When you learned you wouldn't have access to those**  
 12 **borrowings, that was the trigger for filing for**  
 13 **bankruptcy or knowing you would have to file for**  
 14 **bankruptcy; is that correct?**  
 15 A. That is correct.  
 16 **Q. Who was involved in that decision-making process?**  
 17 A. The board of trustees of Caritas Health, my office and  
 18 also the Brooklyn Queens Health Care Corporation.  
 19 **Q. When you say your office, who all was part of your**  
 20 **office?**  
 21 A. It was my management team, but it was my office. It  
 22 was the CEO. It was predominantly me and the board.  
 23 **Q. Okay. Did you work with any specific people**  
 24 **routinely?**  
 25 A. Yes.

1 **Q. Anyone outside of like an administrative assistant**  
2 **role, if you could provide some names who you worked**  
3 **with?**  
4 A. I worked with the management team, the vice  
5 presidents, and I'm going to have a tough time  
6 recalling their names right now. I worked with the  
7 board of trustees, with the chair Emil Rucigay, the  
8 vice chair, Vincent Arcuri, and all the other  
9 trustees. I worked with legal counsel.  
10 **Q. Do you recall any of the names of people on the**  
11 **management team?**  
12 A. I have two -- yes, I could probably remember two vice  
13 presidents' names right now.  
14 **Q. Who were they?**  
15 A. Christopher Mastromanno and -- I'm having problems  
16 remembering another name.  
17 **Q. If you remember, just let me know. We can always come**  
18 **back to it. Who did you report to at Caritas?**  
19 A. To the board of trustees at Caritas.  
20 **Q. Who reported directly to you?**  
21 A. The vice presidents at Caritas Health.  
22 **Q. And what were their names?**  
23 A. The names of?  
24 **Q. Are the vice presidents different from the management**  
25 **team?**

1 A. No. It's one in the same. I just had another recall  
2 of another vice president's name. Her name was  
3 Annette Hastings, H-a-s-t-i-n-g-s.  
4 **Q. Okay.**  
5 A. I also worked with in-house general counsel Clara  
6 Mullally.  
7 **Q. Okay. Were you finished?**  
8 A. M-u-l-l-a-l-l-y, Mullally.  
9 **Q. Thank you. Did you work with anyone at BQHC or**  
10 **Wyckoff?**  
11 A. At BQHC, I worked with the chief restructuring officer  
12 John Lavin, L-a-v-i-n.  
13 **Q. Anyone else?**  
14 A. No. Those are the persons I dealt with directly.  
15 **Q. Anyone at Wyckoff?**  
16 A. No.  
17 MS. HOEY: Objection to form. Go ahead.  
18 **Q. All right. Did your responsibilities at Caritas**  
19 **change once the decision was made to go into**  
20 **bankruptcy?**  
21 A. I'm not sure what you mean by that question.  
22 **Q. Was your role as CEO of Caritas any different once you**  
23 **were going into bankruptcy and you knew Caritas would**  
24 **not be continuing as a hospital?**  
25 MS. HOEY: Objection to form.

1 **Q. You may answer, Mr. Kastanis.**  
2 MS. HOEY: It's a compound question. You can  
3 answer, if you understand it.  
4 A. It's as it would in any situation where you're filing  
5 Chapter 7 for liquidation and closure, yes, it did  
6 change.  
7 **Q. How did it change?**  
8 A. The priorities were to focus on a safe and orderly  
9 closure vis-a-vis state regulations and guidelines on  
10 how to do that.  
11 **Q. Did you work with any other people in planning for the**  
12 **closure than you did on a regular basis before the**  
13 **closure?**  
14 A. Yes.  
15 **Q. And who were those people?**  
16 A. The New York State Department of Health.  
17 **Q. Anyone internally?**  
18 A. All of the management staff and physician leaders.  
19 **Q. When you say "all," is that all at Caritas or all at**  
20 **the hospital system, including Wyckoff and BQHC?**  
21 A. All at Caritas Health.  
22 **Q. All right. Mr. Kastanis, I'd like to draw your**  
23 **attention to Exhibit 11. Do you have that in front of**  
24 **you?**  
25 A. I will in a moment.

1 **Q. Okay.**  
2 A. Yes, I do.  
3 **Q. Exhibit 11 is bates range ROSS022148 through Ross**  
4 **022149. Mr. Kastanis, are you familiar with this**  
5 **exhibit?**  
6 A. Not really.  
7 **Q. Have you ever seen this exhibit before?**  
8 A. I'm copied on it, so I'm assuming that I did see it.  
9 **Q. Okay.**  
10 MS. HOEY: Mr. Kastanis, I would caution you if  
11 you don't recall for a fact receiving something,  
12 please do not assume that you received it.  
13 **Q. Mr. Kastanis, on the what appears to be the third**  
14 **e-mail down in this chain, do you see where it says**  
15 **"From: Julius Romero," the third e-mail down sent on**  
16 **January 27 at 12:21 P.M.?**  
17 A. Yes.  
18 **Q. "To: Claire Mullally," and you were copied, correct?**  
19 A. Yes.  
20 **Q. Okay. Do you recall receiving this e-mail?**  
21 A. I don't.  
22 **Q. Looking at the first sentence, "We still have an**  
23 **active contractual obligation with the schools and**  
24 **their students, but will leave the legalities to you**  
25 **and David."**



1 Do you have any understanding of what that meant?

2 A. No.

3 Q. Do you know why you were copied on this e-mail?

4 A. No.

5 Q. Do you know who Julius Romero is?

6 A. No.

7 Q. Did you have any interaction with Mr. Romero while

8 working at Caritas?

9 A. I don't recall.

10 Q. At the end of that e-mail in Exhibit 11, the third

11 down is a signature block, Julius Romero signature

12 block. Do you see that?

13 A. Yes.

14 Q. And it states he's assistant vice president of medical

15 education for BQHC, Wyckoff and Caritas hospitals. Do

16 you see that?

17 A. Yes.

18 Q. And you say you don't recall if you've had any

19 interaction with Mr. Romero when at Caritas?

20 A. Yes, that's correct.

21 Q. And you have no understanding of what this first

22 sentence of this e-mail meant?

23 A. I don't.

24 Q. Did you -- were you aware of any contractual

25 obligations to medical schools?

23

1 A. Yes.

2 Q. What was your understanding of those obligations?

3 A. It was minimal. I wasn't there long enough to really

4 delve into it. I had other priorities when I was

5 hired.

6 Q. But what was that understanding, even if minimal?

7 A. That there was some contractual arrangement with Ross

8 University School of Medicine.

9 Q. Did you understand or know of any of the substance of

10 that contract?

11 A. No, I did not.

12 Q. Did you know if the hospitals received money from Ross

13 University?

14 MS. HOEY: Objection.

15 A. I don't recall.

16 Q. Mr. Kastanis, you may answer.

17 A. I don't recall.

18 Q. Were you aware at all that those contracts were for

19 the provision of clerkships for medical students?

20 A. I didn't know any of the details.

21 Q. Okay. But were you aware that those were for

22 clerkship positions, the contracts?

23 MS. HOEY: Objection. Asked and answered. You

24 can answer again, Mr. Kastanis.

25 A. I did not know the details.

1 Q. When you say you did not know the details, did you not

2 know at all that they were for providing clerkships or

3 did you not know the numbers of clerkships and the

4 pricing? I'm unclear what you mean when you say

5 "details."

6 MS. HOEY: Objection to form.

7 A. I did not know the details of the arrangement.

8 Q. Can you explain what "details of the arrangement"

9 means? Can you expand on that?

10 MS. HOEY: Objection to form.

11 Q. You can answer.

12 A. Again, I didn't have time to focus on this matter.

13 There were other priorities.

14 Q. Did you have any conversations while serving as CEO of

15 Caritas about the clerkships provided for medical

16 students at the Caritas hospitals?

17 A. Can you repeat that, please.

18 Q. Did you have any conversations, whether internally or

19 externally, regarding the provision of clerkship

20 positions to medical students at the two Caritas

21 hospitals?

22 A. I had brief discussions with some of the clinical

23 chairs of the different departments at the hospitals.

24 Q. Did you have any discussions about what would be done

25 when the hospitals were closed with regards to those

25

1 clerkship positions?

2 A. No.

3 Q. Did you see any memoranda or notes or correspondence

4 aside from Exhibit 11 regarding what would be done

5 with the clerkship positions?

6 MS. HOEY: Objection.

7 Q. If the hospitals closed?

8 A. I don't recall.

9 Q. Do you have any understanding of who was responsible

10 for overseeing the provision of clerkship positions

11 with hospitals at Caritas?

12 MS. HOEY: Objection to form.

13 A. No.

14 Q. You can answer, Mr. Kastanis.

15 A. No.

16 Q. Did you ever have any conversations regarding the

17 contract with Ross with anyone internally or

18 externally while CEO of Caritas?

19 A. No.

20 Q. Exhibit 12, bates range BQHC17412 through BQHC17447.

21 Mr. Kastanis, do you have Exhibit 12 in front of you?

22 A. I think I will in about a minute. Hold on.

23 Q. Okay. Take your time.

24 A. Exhibit 12?

25 Q. 12, yes.



26

1 A. Yes.  
 2 **Q. The first page of Exhibit 12 is an e-mail from Edward**  
 3 **Dowling; is that correct?**  
 4 A. Yes.  
 5 **Q. Do you know who Edward Dowling is?**  
 6 A. Yes.  
 7 **Q. Who is he?**  
 8 A. I believe he was an employee of Brooklyn Queens Health  
 9 Care. He had a planning role working for Brooklyn  
 10 Queens.  
 11 **Q. Did you work with Mr. Dowling at all?**  
 12 A. Yes.  
 13 **Q. In what ways?**  
 14 A. He provided planning information for Caritas Health.  
 15 **Q. When you say "planning," what do you mean?**  
 16 A. Overall plans mostly focused on the Department of  
 17 Health and, you know, community relations. He was  
 18 accessible to us as a support staff person.  
 19 **Q. Was Mr. Dowling knowledgeable about Caritas?**  
 20 A. I would say yes.  
 21 **Q. Was Mr. Dowling familiar with Caritas in terms of the**  
 22 **fact that it was going into bankruptcy?**  
 23 MS. HOEY: Objection to form. Ms. Whittlesey, I  
 24 don't know how this witness, unless he's a mind  
 25 reader, could be expected to tell you what Mr. Dowling

1 **Q. Did Mr. Dowling's recommendations require your**  
 2 **approval?**  
 3 MS. HOEY: Objection to form.  
 4 A. They required the board's approval.  
 5 **Q. Can you describe the process of Mr. Dowling making**  
 6 **recommendations in regards to the Caritas?**  
 7 MS. HOEY: Objection to form.  
 8 **Q. You may answer.**  
 9 A. Please repeat.  
 10 **Q. When Mr. Dowling made recommendations, can you**  
 11 **describe that process?**  
 12 A. I don't recall.  
 13 **Q. Did he make recommendations to you?**  
 14 A. I don't recall.  
 15 **Q. Were his recommendations always made directly to the**  
 16 **board?**  
 17 MS. HOEY: Objection to form.  
 18 **Q. You may answer.**  
 19 A. I don't recall.  
 20 **Q. All right. In regards to Exhibit 12, on Page 2,**  
 21 **BQHC17415, are you familiar with this document?**  
 22 A. I don't have a lot of recall on this.  
 23 **Q. Have you ever seen this document before?**  
 24 A. Yes.  
 25 **Q. Before your preparation for this deposition?**

27

1 did or did not know.  
 2 **Q. Mr. Kastanis, you can answer.**  
 3 MS. HOEY: Note my objection. I think it's  
 4 calling for speculation.  
 5 **Q. You may answer, Mr. Kastanis.**  
 6 A. I don't know.  
 7 **Q. Did you ever have any meetings with Mr. Dowling?**  
 8 A. Yes.  
 9 **Q. Did you ever discuss the closure of Caritas with Mr.**  
 10 **Dowling?**  
 11 A. Yes.  
 12 **Q. What did you discuss with Mr. Dowling in regards to**  
 13 **the closing of Caritas?**  
 14 A. He assisted us in the closure plan.  
 15 **Q. How did he assist you?**  
 16 A. He assisted in our, in addressing the regulations and  
 17 stipulations from the Department of Health on how to  
 18 provide an orderly and safe closure of all the  
 19 facilities in Caritas.  
 20 **Q. Did you rely on Mr. Dowling in providing information**  
 21 **on those regulations for the closure of Caritas?**  
 22 A. To an extent.  
 23 **Q. Did you perform your own checks on Mr. Dowling's**  
 24 **recommendations?**  
 25 A. I don't recall.

29

1 A. Yes.  
 2 **Q. Who drafted this document, Exhibit 12?**  
 3 A. One more time, please.  
 4 **Q. Who drafted Exhibit 12?**  
 5 A. I don't recall.  
 6 **Q. Do you know if there is – Exhibit 12 says "Draft**  
 7 **Final" at the top. Do you see that?**  
 8 A. I do.  
 9 **Q. Do you recall if there was ever a final version of**  
 10 **this document?**  
 11 A. Yes.  
 12 **Q. Do you know when this document was finalized?**  
 13 A. I don't recall.  
 14 **Q. How do you know that there's a final document?**  
 15 A. Because it was received and accepted by the New York  
 16 State Department of Health.  
 17 **Q. So, this was a Caritas Health Care closure plan that**  
 18 **was filed with the New York State Department of**  
 19 **Health?**  
 20 A. Yes.  
 21 **Q. Was that before or after Caritas closed?**  
 22 A. It was before and during.  
 23 **Q. Did you see the final form before it was filed?**  
 24 A. I don't recall.  
 25 **Q. Would a document with the Caritas Health Care closure**

1 plan require your approval as the CEO of Caritas?  
2 MS. HOEY: Objection to form.  
3 Q. You can answer.  
4 A. No.  
5 Q. Did you contribute to the drafting of this document?  
6 A. Yes.  
7 Q. In what ways did you contribute?  
8 A. I don't recall.  
9 Q. Would you say you were -- how involved were you in the  
10 drafting of this document?  
11 A. I don't recall.  
12 MS. HOEY: Objection to form. Asked and  
13 answered.  
14 Q. Turning to Page 14 of this document but bates number  
15 BQHC17428 of Exhibit 12.  
16 MS. HOEY: Gillian, maybe it's what I received,  
17 but I don't have bates numbers on the exhibits.  
18 MS. WHITTLESEY: You don't?  
19 MS. HOEY: No. John, do you have bates numbers  
20 on the exhibits?  
21 Q. Mr. Kastanis, is there a small number in the bottom  
22 right-hand corner beginning with BQHC on your page?  
23 A. Yes.  
24 MS. HOEY: Okay.  
25 MS. WHITTLESEY: Okay. Barbara, I don't know

1 Q. Have you had any conversations regarding the return of  
2 students to Wyckoff from Caritas?  
3 A. No.  
4 MS. HOEY: Objection to form. You're asking  
5 whether at the time he had any conversations?  
6 MS. WHITTLESEY: Yes.  
7 MS. HOEY: Okay. Just so that was clear.  
8 A. My response is I don't recall.  
9 Q. Did you at the time of the drafting of this Caritas  
10 closure plan, did you have any discussions regarding  
11 the Ross University contract?  
12 A. I don't recall.  
13 Q. Any conversations regarding placement --  
14 A. Gillian, we didn't hear that.  
15 Q. Mr. Kastanis, did you hear that?  
16 A. We didn't hear any of that.  
17 Q. Okay. Did you have any conversations regarding the  
18 placement of any medical students from Caritas to  
19 Wyckoff at the time this plan was drafted?  
20 A. I don't recall.  
21 Q. Who provided information for this closure plan?  
22 MS. HOEY: Objection to form.  
23 A. I don't think I understand the question.  
24 Q. Who contributed to the drafting of this closure plan?  
25 MS. HOEY: Objection to form.

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1 why --  
2 MS. HOEY: Maybe it got cut off when it got  
3 printed or something.  
4 MS. WHITTLESEY: I can e-mail you.  
5 MS. HOEY: It's okay. I just want to make sure  
6 the witness is on the same page.  
7 Q. We're on Page 14 of Exhibit 12, the Caritas closure  
8 plan.  
9 MS. HOEY: I can find it.  
10 Q. BQHC17428. Mr. Kastanis, are you on that page?  
11 A. Yes, I am.  
12 Q. Great. Under where it says "Notice And Plan Re: St.  
13 Vincent's Cardiology Fellows At Caritas," where it  
14 says "B. Medical Students," do you see that near the  
15 middle of the page?  
16 A. You're continuing to break up. It's really hard to  
17 understand what you're saying.  
18 Q. Okay. Here it says, "Notice to Ross and AUC medical  
19 schools," and then below that it says, "Approx 50  
20 students to return to Wyckoff re Ross University  
21 contract obligations."  
22 Do you see that?  
23 A. I do.  
24 Q. Do you have any understanding of what that meant?  
25 A. I don't recall.

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1 A. It was various parties.  
2 Q. Could you provide any names?  
3 A. No. I just know that it was in general the management  
4 team at Caritas Health.  
5 Q. Who sent this draft to you?  
6 A. I don't recall.  
7 Q. Did Mr. Dowling assist in the drafting of this plan?  
8 MS. HOEY: Objection. This has been asked and  
9 answered, Ms. Whittlesey, now probably half a dozen  
10 times. The witness has said repeatedly that he  
11 doesn't remember other than the specifics of who  
12 drafted this plan now, by my count at least four,  
13 maybe five, six times, and you keep asking the same  
14 question again.  
15 Q. Mr. Kastanis, did --  
16 MS. HOEY: Ms. Whittlesey, I'd appreciate if you  
17 wouldn't just ignore my objections. I think this is  
18 getting to the point of harassing the witness. He's  
19 asked and answered that question. Please move on.  
20 MS. WHITTLESEY: It is not my intention to harass  
21 the witness. Before I was inquiring as to who  
22 provided the facts that were incorporated into this  
23 closure plan. Now, I was going to ask if any of the  
24 regulatory information Buzz Dowling was providing to  
25 Caritas was incorporated into this plan.

1 MS. HOEY: What?  
2 MS. WHITTLESEY: I'm transitioning into any  
3 regulatory information that Buzz Dowling may have  
4 provided.  
5 MS. HOEY: Okay. I'm totally losing track of  
6 what you're asking. This witness, Mr. Kastanis, did  
7 not draft the closure plan. He cannot testify as to  
8 what Buzz Dowling did or did not do. Mr. Dowling  
9 drafted the closure plan. If you have questions about  
10 the drafting of the closure plan, I suggest you ask  
11 them of Mr. Dowling.  
12 MS. WHITTLESEY: Mr. Kastanis said he doesn't  
13 recall who drafted the closing plan. You have said  
14 Mr. Dowling drafted it just now.  
15 MS. HOEY: Okay.  
16 Q. Mr. Kastanis, did Mr. Dowling draft the closure plan?  
17 A. I don't recall.  
18 Q. Okay. Turning to Exhibit 13, Mr. Kastanis, BQHC15550  
19 with the second page BQHC15551.  
20 A. Okay.  
21 Q. Looking at the second page, BQHC15551, are you  
22 familiar with this document?  
23 A. I don't recall this one.  
24 Q. Do you see where it says "From: John Kastanis"?  
25 A. I do.

1 A. That I don't recall.  
2 Q. Was it common practice for memos or correspondence  
3 with your name from you to be distributed without your  
4 approval?  
5 A. I don't recall that.  
6 Q. Did you have any conversations with Ross about Exhibit  
7 13?  
8 A. I don't recall.  
9 Q. Did you have any internal conversations about Exhibit  
10 13?  
11 A. I don't recall that.  
12 Q. Have you seen Exhibit 13 before?  
13 A. I don't recall.  
14 Q. You don't recall if you've ever seen it?  
15 A. No.  
16 Q. And did you have any conversations internally about  
17 the subject matter of Exhibit 13?  
18 A. I don't recall.  
19 Q. As CEO of Caritas, did you allow memos or letters to  
20 be distributed widely to an entire group without your  
21 approval ever?  
22 MS. HOEY: Objection to form.  
23 Q. You can answer.  
24 A. I don't recall.  
25 Q. In what instances might a letter or memo be

35  
1 Q. Do you know what this document is?  
2 A. I don't recall.  
3 Q. Who drafted this document?  
4 A. I don't recall.  
5 Q. Why was Exhibit 13 drafted?  
6 A. I don't recall.  
7 Q. Did you have any conversations about Exhibit 13 when  
8 you were the CEO of Caritas?  
9 A. I don't recall.  
10 Q. Did you draft Exhibit 13?  
11 A. No.  
12 Q. Who drafted documents on your behalf, for you while  
13 working as CEO of Caritas?  
14 A. There was various staff.  
15 Q. Would you provide names, please.  
16 A. I don't recall.  
17 Q. Did you review this Exhibit 13?  
18 A. Yes.  
19 Q. Did you approve Exhibit 13?  
20 A. I don't recall that.  
21 Q. Was Exhibit 13 distributed to students at the Caritas  
22 hospitals?  
23 A. I don't recall.  
24 Q. Would a memo like Exhibit 13 require your approval to  
25 be distributed to students?

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1 distributed to a group without --  
2 MS. HOEY: Objection.  
3 A. Please repeat. You're breaking up.  
4 Q. In what circumstances would it be permissible for a  
5 letter or memo to be distributed to a group with your  
6 name on it without you seeing it or giving approval?  
7 MS. HOEY: Objection to form.  
8 Q. You may answer.  
9 MS. HOEY: The witness has not testified that any  
10 of that occurred, Ms. Whittlesey. You have no  
11 foundation to ask that.  
12 Q. Mr. Kastanis?  
13 A. I can't think of any.  
14 Q. Excuse me.  
15 A. I cannot think of any instances.  
16 Q. Okay. Turning to Exhibit 7, bates range BQHC12682  
17 through BQHC12784. Looking at the first page of  
18 Exhibit 7, Mr. Kastanis, are you on that page?  
19 A. The first page, yes.  
20 Q. Exhibit 7, there's an e-mail from Edward Dowling to  
21 you, "Subject: M. Smith," sent on January 12, 2008 at  
22 7:56 P.M. Is that correct?  
23 A. Yes.  
24 Q. Do you recall did you receive this e-mail?  
25 A. I don't remember this one.

1 Q. Looking at the body of the first page of Exhibit 7,  
2 "First cut at Malcolm Smith memo." What is the  
3 Malcolm Smith memo?  
4 A. I'm not sure.  
5 Q. Mr. Kastanis, you testified that you reviewed these  
6 exhibits in preparation for your deposition; is that  
7 correct?  
8 A. Yes, I did.  
9 Q. And you do not know what the Malcolm Smith memo is?  
10 MS. HOEY: Objection to form.  
11 A. I don't have good recall.  
12 Q. Do you know what the Malcolm Smith memo is?  
13 A. Just in reading it, I can understand what it says, but  
14 I don't recall what we did with this memo.  
15 Q. Looking at Page 2 of Exhibit 7.  
16 A. Yes.  
17 Q. This is a memo that appears to be in draft form. Do  
18 you see where it says, "From: John Kastanis,  
19 President and CEO of Caritas Health Care"?  
20 A. Yes, I do.  
21 Q. And do you see where it says "To: Hon. Malcolm Smith,  
22 Senate Majority Leader"?  
23 A. I do.  
24 Q. And you see the subject is "Imminent closure of  
25 Caritas facilities"?

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1 A. Yes.  
2 Q. Why was this memo drafted?  
3 A. It was probably drafted seeking political support for  
4 our situation.  
5 Q. What do you mean by "political support"?  
6 A. Malcolm Smith was an elected official from our area,  
7 and we were enlightening him to our pending bankruptcy  
8 and closure.  
9 Q. And what was the motivation in writing this? Were you  
10 seeking anything in return?  
11 MS. HOEY: Objection to form.  
12 Q. You may answer.  
13 A. I'm sure we were looking for political support for  
14 continuing state support to keep the hospitals open.  
15 Q. What do you mean by "state support"?  
16 A. I mentioned earlier that we were continuing to receive  
17 borrowings from the New York State Department of  
18 Health and Dormitory Authority, and we were looking to  
19 see if we could continue that support.  
20 MR. LOUGHLIN: This is Walter Loughlin speaking.  
21 I note that the second paragraph on BQHC12683 says,  
22 "We seek your intervention with the Governor to seek  
23 continued support of the New York Department of Health  
24 and NYS Dormitory Authority to provide ongoing  
25 operating support in bankruptcy to avoid a disorderly

1 closure of services and allow for development of a  
2 reorganization plan that preserves services essential  
3 to these Queens communities."  
4 I just don't understand the point of asking this  
5 witness questions about this document when this speaks  
6 for itself about what its purpose was, especially with  
7 respect to the portion I just quoted.  
8 MS. WHITTLESEY: Mr. Loughlin, are you objecting  
9 to this line of questioning?  
10 MR. LOUGHLIN: I'm only pointing out the utter  
11 uselessness of this deposition as reflected in this  
12 particular line of questioning.  
13 MS. HOEY: I will also note, Ms. Whittlesey, that  
14 it's now 11:00, and I do have to terminate at 11:20,  
15 and we'll have to reconvene. When I spoke with your  
16 partner on the matter, George, two, three weeks ago to  
17 set this up, he told me literally he had 15 minutes  
18 worth of questions for Mr. Kastanis, 15 minutes.  
19 MS. WHITTLESEY: We did expect for this to move  
20 along more quickly than it has today.  
21 MS. HOEY: Yeah, but you've been asking 45  
22 minutes worth of useless questions, but continue.  
23 We're going to have to stop at 11:20.  
24 MS. WHITTLESEY: Well, maybe we should stop a  
25 little before 11 :20 so we can discuss when we will

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1 pick this back up.  
2 MS. HOEY: How much longer do you have?  
3 MS. WHITTLESEY: That really depends on how  
4 things continue to go. I would hope that I would have  
5 no more than 30 more minutes left. But we can try and  
6 work through Exhibit 7, wrap that up and discuss when  
7 we'll pick this back up to finish the rest before you  
8 have to go for your other obligation.  
9 MS. HOEY: Note my agreement with Mr. Loughlin's  
10 comments. Why don't you continue.  
11 Q. Mr. Kastanis, did you draft Exhibit 7?  
12 A. I don't recall.  
13 Q. Did you contribute to the drafting of Exhibit 7?  
14 A. I don't recall.  
15 Q. Did you have any discussions with anyone internally  
16 about Exhibit 7?  
17 A. Yes.  
18 Q. Who did you have discussions with?  
19 A. I don't recall.  
20 Q. Did Mr. Dowling -- on the first page you see this  
21 e-mail from Mr. Dowling refers to this as the "first  
22 cut." Did Mr. Dowling review the first draft of  
23 Exhibit 7?  
24 MS. HOEY: Objection to form. The witness is not  
25 Mr. Dowling. He cannot testify about what Mr. Dowling

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1 did.  
2 Q. Well, did Mr. Dowling send you this first draft?  
3 MS. HOEY: Objection to form. Ms. Whittlesey,  
4 the e-mail comes from Mr. Dowling, okay. You cannot  
5 ask this witness to tell you what another person did.  
6 The question is improper.  
7 Ask Mr. Kastanis, if you want to ask him, what he  
8 did, not what someone else did.  
9 Q. Mr. Kastanis, did you ask Mr. Dowling to draft a memo  
10 like the one in Exhibit 7?  
11 A. I don't recall.  
12 Q. Did you ask to review a memo like the one that appears  
13 in Exhibit 7?  
14 A. I don't recall.  
15 Q. Was Exhibit 7 ever created in final form?  
16 A. I don't recall.  
17 Q. Was a memo similar to Exhibit 7, a later draft or a  
18 final version ever sent to Senator Malcolm Smith?  
19 A. I don't recall.  
20 Q. Would a memo to Senator Malcolm Smith from you require  
21 your approval to be sent?  
22 A. Yes.  
23 Q. Looking at the second page of Exhibit 7, the first  
24 page of the memo, the fifth paragraph down, the second  
25 after "Background," the subtitle "Background."

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1 A. Yes.  
2 Q. What --  
3 A. We can't hear you.  
4 MS. HOEY: That was breaking up, Gillian.  
5 Q. Do you see the second sentence in the second  
6 paragraph, "The CFO of Wyckoff also intermingled  
7 Caritas funds with Wyckoff funds as needed to meet  
8 Wyckoff's shortfalls and very quickly after initiating  
9 operations, Caritas began to fail"?  
10 Do you see that?  
11 A. I do see it.  
12 Q. Did you know of any intermingling of funds?  
13 A. No.  
14 Q. Did you know of any intermingling of funds after the  
15 fact? At the time of the drafting of this letter, had  
16 you heard of it?  
17 A. No.  
18 MS. WHITTLESEY: Well, it appears we are at  
19 11:10. Should we schedule a time to pick this back  
20 up.  
21 MS. HOEY: Well, I don't know. Ms. Whittlesey,  
22 why don't you keep going until 11:15.  
23 Q. Mr. Kastanis, did you ever read this sentence, the  
24 second sentence in Paragraph 2 under "Background"?  
25 A. I don't recall.

1 Q. Okay. Turn to Exhibit 9. I'm at Exhibit 9, BQHC12669  
2 through BQHC12673. Do you have Exhibit 9 in front of  
3 you, Mr. Kastanis?  
4 A. I do.  
5 Q. Do you see where it says it's an e-mail from Mr.  
6 Dowling?  
7 A. Yes.  
8 Q. To you?  
9 A. Yes.  
10 Q. And it's on January 13, 2009, about 1:53 P.M.?  
11 A. Yes.  
12 Q. And the subject of this is M. Smith?  
13 A. Yes.  
14 Q. Do you recall receiving these e-mails from Mr.  
15 Dowling?  
16 A. I do not.  
17 Q. Did you have any conversations with Mr. Dowling  
18 regarding this letter to Senator Smith?  
19 A. I don't recall.  
20 Q. Did you give Mr. Dowling comments or revisions of any  
21 sort for the first cut of the letter to Senator Smith?  
22 A. I don't recall.  
23 Q. Do you have any idea why he would send you a third  
24 cut?  
25 MS. HOEY: Objection. Calls for speculation.

45

1 Q. You may answer.  
2 A. No.  
3 Q. Did you respond to the first draft or cut of the memo  
4 in any way to Mr. Dowling?  
5 A. I don't recall.  
6 Q. All right. Looking at Page 2 of Exhibit 9, bates  
7 number BQHC12670, the second paragraph down from  
8 "Background," looking to where the second sentence  
9 that we discussed in the previous exhibit appeared, do  
10 you see that that sentence is not in this draft?  
11 A. I do.  
12 Q. Do you know why that sentence was taken out?  
13 A. Perhaps because it wasn't true.  
14 Q. Did you have any discussion -- do you know that it  
15 wasn't true or are you speculating?  
16 A. I just know it wasn't true.  
17 Q. You realize that you are testifying today under oath?  
18 A. Yes.  
19 Q. And your statement is that the sentence in Exhibit 7  
20 regarding "The CFO of Wyckoff also intermingled  
21 Caritas funds with Wyckoff funds as needed to meet  
22 Wyckoff's shortfalls and very quickly after initiating  
23 operations, Caritas began to fail" is untrue?  
24 A. You broke up, but I think I got the gist of what you  
25 said.



1 Q. I can restate it. Your testimony is that the sentence  
2 in Exhibit 7 on the second page that we discussed  
3 earlier, "The CFO of Wyckoff also intermingled Caritas  
4 funds with Wyckoff funds as needed to meet Wyckoff's  
5 shortfalls and very quickly after initiating  
6 operations, Caritas began to fail."  
7 It's your testimony that that sentence was not  
8 true?  
9 A. What I'm saying is that I wasn't aware of that.  
10 Q. So, you did not know?  
11 A. Correct.  
12 Q. Why did you state that the sentence was not true?  
13 A. Because I wasn't aware of any intermingling of funds.  
14 Q. So, looking again at Exhibit 9, that second paragraph,  
15 we discussed that that sentence doesn't appear in this  
16 version. Do you know any reason, not that you didn't  
17 hear something or think something, but do you know of  
18 any reason or did you have any discussions of why that  
19 sentence was taken out of this draft?  
20 A. No recall.  
21 Q. Did you review this third draft, Exhibit 9?  
22 A. No recall.  
23 Q. Did you give any attention to these drafts as they  
24 were sent to you?  
25 A. I don't remember.

1 MS. HOEY: Well, I have no desire to continue the  
2 deposition, but I think Ms. Whittlesey does. Mr.  
3 Kastanis, unfortunately I have a meeting, I have this  
4 thing at 11:30 which I don't think is going to take  
5 very long, but who knows. It's a judge.  
6 It's an initial conference, so there's no real  
7 drama involved. We're simply setting a discovery  
8 schedule, but I have another meeting at 12:30.  
9 So, Ms. Whittlesey, how much more do you have in  
10 terms of questions?  
11 MS. WHITTLESEY: I don't expect to have too much  
12 more.  
13 MS. HOEY: So, like 15 minutes?  
14 MS. WHITTLESEY: Probably 15 to 30 minutes,  
15 depending how things go.  
16 MS. HOEY: Let me suggest this to accommodate  
17 Walter, as well. If everyone can be a bit flexible,  
18 when I get off this 11:30 call, I could e-mail you  
19 all, including Mr. Kastanis. If everyone stays tuned,  
20 I could be off the call by noon, and then maybe we  
21 could reconvene it and finish it before Mr. Loughlin  
22 has to leave for the flight.  
23 Is that workable?  
24 MS. WHITTLESEY: That would work for me.  
25 MR. LOUGHLIN: It's fine with me, too.

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1 MR. LOUGHLIN: I'm going to object to this line.  
2 Ms. Whittlesey, I mean, I don't know if you know the  
3 facts or not. I assume you know the facts, because  
4 you're involved in the case, but the reference in the  
5 earlier draft was to unauthorized transfers done by a  
6 former CFO, which when they came to light he was  
7 terminated, and it happened two years before Mr.  
8 Kastanis arrived on the scene. This whole line, this  
9 is pointless.  
10 MS. WHITTLESEY: Mr. Loughlin --  
11 MR. LOUGHLIN: Just go forward. It's your  
12 deposition.  
13 MS. WHITTLESEY: We have hit 11:17. I think we  
14 should arrange a time to pick this up since Ms. Hoey  
15 has to leave in three minutes. Is there a time later  
16 this afternoon that works for everyone?  
17 MS. HOEY: Mr. Kastanis, let's first ask you,  
18 since you're the person who's most being  
19 inconvenienced, and I understand -- Walter, are some  
20 people traveling today?  
21 MR. LOUGHLIN: There's a deposition scheduled for  
22 9:00 in the morning in Nashville. I will be leaving  
23 the office at 1:00 this afternoon. I could have  
24 somebody sit on the end of the phone if there was a  
25 desire to continue this deposition.

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1 MS. HOEY: John, is that okay with you?  
2 THE WITNESS: It's about the only space I have.  
3 Today is a board meeting for me.  
4 MS. HOEY: The court reporter obviously has to  
5 sit and wait, which I don't want to inconvenience her  
6 anymore than necessary.  
7 MS. WHITTLESEY: Right.  
8 MS. HOEY: Okay. So, let's do this. Let's get  
9 off. Hopefully, my court conference won't take that  
10 long. When I get off the court phone call, and as I  
11 said, it's just an initial conference setting a  
12 schedule, I will send an e-mail around to everyone.  
13 If we can reconvene, we'll just get back on the  
14 conference line.  
15 MS. WHITTLESEY: Okay. That works.  
16 MS. HOEY: All right. Great.  
17 (Recess taken from 11:20 to 12:05.)  
18 MS. WHITTLESEY: Is there anything we need to  
19 discuss before we get started?  
20 MS. HOEY: No.  
21 MS. WHITTLESEY: Great.  
22 CONTINUED EXAMINATION BY MS. WHITTLESEY:  
23 Q. Mr. Kastanis, we are back from approximately a  
24 40-minute break. Do you understand that you are still  
25 under oath?

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1 A. Yes, I do.

2 **Q. During that break did you have any conversations**  
3 **regarding the deposition with anyone?**

4 A. No.

5 **Q. All right. Before we get back into the substance, I**  
6 **just want to cover a few quick things. Mr. Kastanis,**  
7 **is Wyckoff paying your legal fees?**

8 MS. HOEY: Objection. I'm going to direct the  
9 witness not to answer.

10 MS. WHITTLESEY: On what basis?

11 MS. HOEY: On the basis that it's privileged  
12 information and not relevant at all to the issues in  
13 this case.

14 MS. WHITTLESEY: Are you objecting on the basis  
15 of attorney-client privilege?

16 MS. HOEY: Yes.

17 MS. WHITTLESEY: On what foundation?

18 MS. HOEY: I don't have a case to cite to you,  
19 Ms. Whittlesey, but I'm objecting and I'm directing  
20 the witness not to answer on grounds of privilege and  
21 complete lack of relevance. Could you please just  
22 move on so we can finish the deposition. Mr. Kastanis  
23 has a lot on his plate today.

24 MS. WHITTLESEY: I am ready to move on.

25 MS. HOEY: Okay, great.

1 A. Yes.

2 **Q. In what ways did you work with Mr. Dowling in trying**  
3 **to seek state funding for Caritas?**

4 A. I thought I had answered that question earlier.

5 **Q. You had mentioned a few things, but not specifically**  
6 **in terms of seeking state funding.**

7 A. As I said, he was, you know, available to us as  
8 support staff in the area of planning.

9 **Q. In regards to seeking funds from state agencies, did**  
10 **you work with Mr. Dowling?**

11 A. I don't recall.

12 MS. HOEY: Objection to form. Ms. Whittlesey, he  
13 has answered that question.

14 **Q. You may answer, Mr. Kastanis.**

15 A. Again, he assisted in all areas of planning and  
16 strategies, so I don't recall specifically if he  
17 helped us with this matter or not.

18 **Q. In his assistance with the Caritas closure -- let me**  
19 **move on.**

20 **The e-mail below the top e-mail, the one from**  
21 **you, Mr. Kastanis, do you see in the body, "This is**  
22 **the draft report that we plan to submit to Senator Mal**  
23 **Smith, as well as other elected officials"?**

24 A. Yes, I see it.

25 **Q. Did you ever submit the plan to any elected officials?**

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1 **Q. I believe we were going to finish --**

2 MS. WHITTLESEY: Court Reporter, can you refresh  
3 my memory on what exhibit we were working through  
4 before the break.

5 COURT REPORTER: 9.

6 **Q. Mr. Kastanis, if I could bring your attention to**  
7 **Exhibit 8, which is BQHC12653 through BQHC12658. Do**  
8 **you have that in front of you?**

9 A. I do.

10 **Q. Okay. On the first page, bates number BQHC12653, at**  
11 **the top of the page do you see where it's an e-mail**  
12 **from Edward Dowling to you?**

13 A. Yes.

14 **Q. Dated January 13, 2009?**

15 A. Yes.

16 **Q. All right. At the bottom of the page or I guess the**  
17 **bottom of that particular e-mail do you see Edward**  
18 **Dowling's signature block?**

19 A. I don't see it at the bottom of the page, no.

20 **Q. Oh. It's at the bottom of that e-mail, kind of**  
21 **halfway down the page.**

22 A. Okay.

23 **Q. It says, "Senior Vice President of Strategic Planning**  
24 **for Brooklyn Queens Health Care, Inc." Do you see**  
25 **that?**

1 A. What plan?

2 **Q. The attached memo that we were discussing earlier.**  
3 **I'm sorry. It's the third page of this exhibit.**

4 A. That I don't recall.

5 **Q. In planning to submit this, did you have any**  
6 **conversations with Mr. Dowling?**

7 A. I don't recall.

8 **Q. Did you have any conversations with anyone regarding**  
9 **the plan to submit the memos to Senator Malcolm Smith?**

10 A. I'm not recalling anybody specifically at this time.

11 **Q. Any conversations, regardless of who they were with?**

12 A. Yes.

13 **Q. What were those conversations about?**

14 A. I don't recall, other than the contents of this draft,  
15 and I don't recall if we actually sent it.

16 **Q. Okay. On the third page of this version of the draft,**  
17 **it's a little further down on the page than the**  
18 **earlier versions we've looked at, but it's still under**  
19 **"Background," second paragraph.**

20 A. Right.

21 **Q. Do you see any mention of intermingling of funds in**  
22 **this second paragraph?**

23 A. No.

24 **Q. Do you recall seeing this draft in Exhibit 8?**

25 A. I don't recall.



1 Q. As CEO of Caritas in January of 2009, did you take any  
2 other actions to seek funding from state agencies,  
3 aside from drafting this memo?  
4 MS. HOEY: Objection to form. I don't believe --  
5 unless I'm mistaken, Ms. Whittlesey, I don't think the  
6 witness testified that he drafted the memo.  
7 MS. WHITTLESEY: I will rephrase.  
8 MS. HOEY: Thank you.  
9 Q. During January of 2009, as CEO are you aware of any  
10 action taken by anyone at Caritas seeking state  
11 funding aside from the drafting of this particular  
12 memo to Senator Malcolm Smith?  
13 MS. HOEY: Objection to form.  
14 Q. You may answer.  
15 A. I don't recall.  
16 Q. Was the plan to send this letter in Exhibit 8 the only  
17 action taken by Caritas to seek state funding during  
18 2009?  
19 A. I don't recall.  
20 Q. If a version of this letter was sent to Senator  
21 Malcolm Smith, what process would it have to undergo  
22 to be approved and sent out by you or on your behalf?  
23 A. It would be myself and the board of trustees and  
24 perhaps some legal counsel.  
25 Q. So, the board of trustees, legal counsel and yourself

1 MS. WHITTLESEY: I'm here to depose Mr. Kastanis,  
2 not you.  
3 MS. HOEY: Ms. Whittlesey, we all see the  
4 statement. Do you have a question?  
5 Q. Mr. Kastanis, do you see the second sentence in the  
6 second paragraph that states "The CFO of Wyckoff also  
7 intermingled Caritas funds with Wyckoff funds as  
8 needed to meet Wyckoff's shortfalls and very quickly  
9 after initiating operations, Caritas began to fail"?  
10 A. I see it.  
11 Q. Great. Exhibit 8, the one that we were looking at  
12 previously, on the second page or I guess the third  
13 page, the first page of the memo, second paragraph  
14 under "Background," do you see that that sentence is  
15 not included in this version?  
16 A. Yes.  
17 Q. Did someone at the hospital make the decision to  
18 exclude that sentence from this memo?  
19 A. I don't recall.  
20 Q. Was that sentence not included because it would not  
21 benefit Caritas to reveal that the hospitals had  
22 intermingled funds in the past to meet Wyckoff  
23 shortfalls?  
24 MS. HOEY: Objection. Asked and answered.  
25 MR. LOUGHLIN: I'll object, too. Ms. Whittlesey,

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1 would have to approve a memo like this before it could  
2 be sent out?  
3 A. Normally, that's what would happen, but I don't recall  
4 what happened in this case, if we did send this letter  
5 at all.  
6 Q. Okay. All right. So, looking back at Exhibit 7,  
7 which we looked at earlier, on the second page, let me  
8 know when you have that in front of you, please.  
9 A. I have it.  
10 Q. All right. So, back to that second sentence in the  
11 second paragraph under "Background."  
12 A. Yes.  
13 Q. In this earlier version draft of this letter that was  
14 planned to be sent, but we don't know if it was sent,  
15 "The CFO of Wyckoff also intermingled Caritas funds  
16 with Wyckoff funds as needed to meet Wyckoff's  
17 shortfalls and very quickly after initiating  
18 operations, Caritas began to fail," correct?  
19 MS. HOEY: Objection to form. Is there a  
20 question there? I honestly don't know what your  
21 question is. You just read the witness something from  
22 this letter. Is there a question?  
23 Q. Do you see it?  
24 MS. HOEY: Yes, we all see it, with all due  
25 respect.

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1 this is, you know -- I don't know whether you're  
2 trying to be affirmatively misleading or whether you  
3 just don't know the facts. As I indicated before, the  
4 episode that you're referring to that was alluded to  
5 in the draft --  
6 MS. WHITTLESEY: Mr. Loughlin --  
7 MR. LOUGHLIN: Just a second. Let me put this on  
8 the record. Occurred, as the language that you keep  
9 quoting indicated, shortly after Caritas opened, which  
10 was in the first quarter of 2007.  
11 It was not concealed from anyone. When it came  
12 to light, all the officials at the Department of  
13 Health were notified, and the person who was  
14 responsible for the unauthorized transfers was fired.  
15 That's not disputed.  
16 If you want a stipulation that the sentence that  
17 appears in one draft does not appear in the other  
18 multiple drafts which you sent along as exhibits, I  
19 will stipulate to that.  
20 MS. HOEY: I will stipulate to that. The  
21 sentence appears in what looks like a first draft. It  
22 doesn't appear in the other drafts. I will also  
23 stipulate that we all agree that, as Mr. Loughlin  
24 points out, the individual who was responsible for  
25 those transfers was terminated in 2007, approximately

1 18 months before Mr. Kastanis was ever hired.  
 2 I cannot testify for Mr. Kastanis, but I don't  
 3 think he ever met or had any contact with that person.  
 4 MS. WHITTLESEY: Ms. Hoey, I completely agree  
 5 that you cannot testify on behalf of Mr. Kastanis.  
 6 MS. HOEY: So, why don't you ask him the  
 7 questions. Ask him whether he knows anything about  
 8 any unauthorized transfers. Ask him whether he ever  
 9 met or had any conversation with anyone about any  
 10 unauthorized transfers, and then you'll get the  
 11 testimony on the record and we can be done.  
 12 MS. WHITTLESEY: I'd like to object to these  
 13 extended speaking objections. I'd also like to object  
 14 to any coaching of the witness that is occurring.  
 15 MS. HOEY: Nobody is coaching the witness. I'd  
 16 like to take the deposition for you. Please, Ms.  
 17 Whittlesey, please move it along. Ask the questions.  
 18 MR. LOUGHLIN: The witness did testify in the  
 19 earlier portion of this deposition that he had no  
 20 knowledge of the intermingling of funds, period.  
 21 MS. HOEY: You're correct. That's correct.  
 22 That's why I objected.  
 23 MS. WHITTLESEY: That was not my last question.  
 24 MS. HOEY: Then what was your last question?  
 25 MS. WHITTLESEY: Court Reporter, could you please

1 read back my last question.  
 2 MS. HOEY: Oh, Lord.  
 3 (The reporter read back the record as requested.)  
 4 **Q. Mr. Kastanis, you may answer.**  
 5 A. I don't know.  
 6 **Q. Was the sentence removed because it would hurt**  
 7 **Caritas' chances of receiving state funding?**  
 8 MS. HOEY: Objection.  
 9 **Q. You may answer.**  
 10 A. I have no response. I don't know.  
 11 MS. WHITTLESEY: I believe that was all I need to  
 12 cover.  
 13 MS. HOEY: I have no questions for the witness.  
 14 Mr. Loughlin, do you have any questions for Mr?  
 15 Kastanis?  
 16 MR. LOUGHLIN: No, I don't. Thank you, Mr.  
 17 Kastanis.  
 18 MS. WHITTLESEY: Thank you, Mr. Kastanis.  
 19 MS. HOEY: Thank you, Mr. Kastanis.  
 20 THE WITNESS: You're welcome.  
 21 (Whereupon the deposition ended at 12:22 P.M.)  
 22  
 23  
 24  
 25

1 CERTIFICATE  
 2 I, Carol A. Whitney, a Certified Shorthand  
 3 Reporter and a Notary Public in and for the  
 4 Commonwealth of Massachusetts, do hereby certify that  
 5 the deposition of JOHN N. KASTANIS was taken and  
 6 transcribed by me; that the witness provided  
 7 satisfactory evidence of identification as prescribed  
 8 by Executive Order 455 (03-13) issued by the Governor  
 9 before being duly sworn by me; that he was thereupon  
 10 examined upon his oath and that the transcript  
 11 produced by me is a true record of the proceedings to  
 12 the best of my ability; that I am neither counsel for,  
 13 related to, nor employed by any of the parties to the  
 14 action in which this deposition was taken, and further  
 15 that I am not a relative or employee of any attorney  
 16 or counsel employed by the parties thereto, nor am I  
 17 financially or otherwise interested in the outcome of  
 18 the action.  
 19 My Commission Expires:  
 20 June 13, 2014 Notary Public  
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 25 DIRECTION OF THE CERTIFYING REPORTER.

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